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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,699	10/27/2003	Farid Bruce Khalili	Ve 010	2292

7590 09/18/2006
LAWRENCE CRUZ
12 GOOD HILL RD.
BETHEL, CT 06801

EXAMINER

SWIGER III, JAMES L

ART UNIT PAPER NUMBER

3733

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,699

Applicant(s)

KHALILI, FARID BRUCE

Examiner

James L. Swiger

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 33-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Invention A-1 *AND* B in the reply filed on 6/26/2006 is acknowledged.

Claims 33-57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/26/2006.

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because they are not clear. See attached Draftsperson review. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Objections

Claim 19 is objected to because of the following informalities:

In line 7 the colon should be removed in the middle of the sentence. Therefore, "first: body" should read --first body--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Talaber et al. (US Patent 6,261,291). Talaber et al. disclose an implant fastening/stabilizing system comprising a fastener (14) having a first and second ends and a shaft, the first end able to fixedly engage in a first body such as bone (15, see Fig. 1) and second end to a second body (such as 11) that may be implantable and spans between two bone structures (note split in Fig. 1), a resilient retention member (12) that is able to cooperate with the second body (see Fig. 3a) and that is considered a split ring that is capable of causing a fastener to move between a retained and non-retained condition because it is capable of producing a bias (Col. 4, lines 13-23) between either a relaxed or flexed state. The fastener comprises screw threads (see Fig. 2). The second end of the fastener, or at least a fastener retention system, is also considered to be a locking portion that has a larger diameter section (21) that fits between two smaller diameter sections. See drawing below with emphasis.

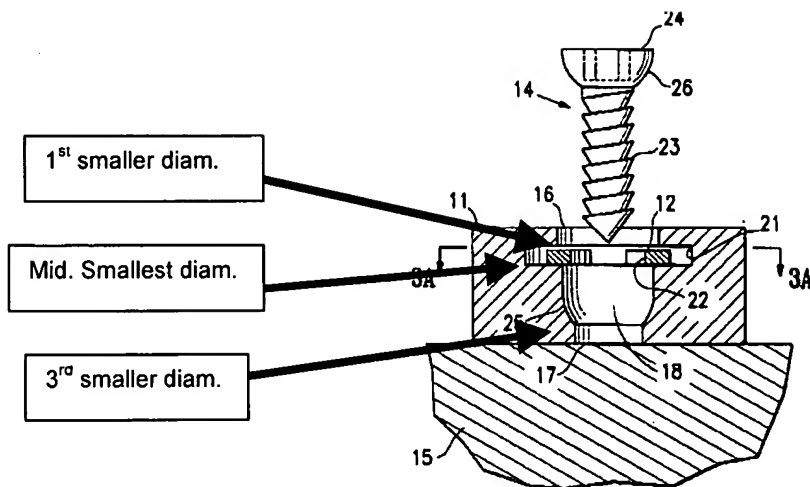


FIG. 3

Within the large diameter section, the split ring may be positioned, through which it must be passed by a fastener in order to be removed. Depending on how it is viewed, the split ring may be fitted into a smaller diameter setting, if it is appropriately adjusted, where it could also be positioned, as a functional limitation, around a smaller diameter setting. The larger diameter in the second body, is also considered to be subsurface and the split ring has a greater outer diameter in its relaxed stated compared to the surface diameter, which is being considered as the "above smaller diameter."

Talaber et al. also disclose a method of retaining a fastener comprising providing the fastener with the limitations listed *supra*, positioning a retention member in to a second body providing a bias, positioning a first and second body in close proximity to one another (e.g. "positioning a stabilizing element against a surface of the patient's bone"), passing a fastener through a first and second body (Col. 9, lines 45-47, as a securing element), and moving the fastener between a relaxed and flexed state (e.g.

"displacing the biased stopping member" Col. 9, lines 45-55) and attaching the stabilizing element to the bone (see Col. 9, line 62).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James L. Swiger whose telephone number is 571-272-5557. The examiner can normally be reached on Monday through Friday, 9:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS

9/11/06


EDUARDO C. ROBERT
SUPERVISORY PATENT EXAMINER